

# News Release



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Contact: Rita Ford  
Phone: (202) 693-8671

## **Labor Department Obtains Court Order Restoring Contributions to Participants in Canton, Ohio 401(k) Plan**

**CINCINNATI, Ohio --** The U.S. Department of Labor obtained a consent order and judgment on April 16, requiring Canton, Ohio-based Comco, Inc. to pay \$6,973.49 to restore employee contributions and interest to participants of its 401(k) plan for the plan trustee's failure to forward the contributions to the plan.

Trustee Douglas Ray Smith also was permanently barred from serving any employee benefit plan governed by the Employee Retirement Income Security Act.

"We will continue to protect the hard-earned benefits of American workers through vigilant enforcement of the law," said Joseph Menez, director of the Cincinnati regional office of the Labor Department's Employee Benefits Security Administration (EBSA), which investigated the case.

The Labor Department filed a suit in January 2003 against Smith for allegedly using \$6,675 in employee contributions from October 2001 to March 2002 to benefit the company. Comco, Inc. manufactured automobile parts until the company was dissolved in March 2002.

Comco, Inc. sponsored the plan for 31 participants. As of Feb. 28, 2001, the plan had \$229,838 in assets. The company's assets were auctioned in April 2002 to pay its secured creditors. In July 2002, Smith filed for Chapter 7 bankruptcy protection.

Joseph Menez noted that employers with similar problems, who are not yet the subject of an investigation by EBSA, may be eligible to participate in the department's Voluntary Fiduciary Correction Program (VFCP). Participation in the VFCP requires employers to make workers whole but allows them to avoid EBSA enforcement actions and civil penalties as well as applicable excise taxes. For more information about the VFCP see [www.dol.gov/ebsa](http://www.dol.gov/ebsa).

Employers and workers can reach the Cincinnati regional office at 859-578-4680 or through EBSA's toll-free number, 1-866-444-EBSA (3272), for help with any problems relating to private-sector pension and health plans.

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(Chao v. Douglas Ray Smith and Comco, Inc. 401(k) Plan)  
Civil Action No. 5:03CV0199